App. F. IX-4

Previous References 192 -29 (Munsif)

File No. 173-28

Serial Nos. 1—5

Later References

General and Revenue Secretariat.

Serial Nos. 5

Part B for 1/6/29—

SUBJECT

Appeal against the Munsif's order in the matter of ~~House~~ House belonging to the right of the said Sri Sakalesvara swamy temple at Mandya in which the archak ~~was~~ is serving and prays for a stay order pending disposal of this appeal.

Sl 5)

To the Munsif

No 2194- Dy 9-4-29

Fwd copy of the decision in appeal No 18 of 28-29 that the ~~archak~~ appellant is not the archaka of the temple and he need not be evicted from house until he continues to do puja

Vrl

G. R. S. APP F.III—1] 192 8.

GENERAL AND REVENUE SECRETARIAT.

(Muzhai)

NOTES.

File No. 173
26-29

FILE HEADING.

House belonging to Sri Sakaleswara Swamy Temple at Mandya.

FROM

Archaka Narayana Dikshit.

No. Dated Received 9-11-28

Diary No.	Enclos.	Spare copies	Serial No.
717			1

BRIEF ABSTRACT OF LETTER.

Appeals against the M.D.S order in the matter of the right of the said temple to the House in which the Archaka is living, and prays for a Stay order pending disposal of the appeal.

NOTES AND ORDERS.

The appeal petition was presented to the Members. Members order — "Records may be called for and the case posted for hearing. No Stay order"

Submts.

14-11-28.

NOTES—First Sheet

Serial No.

2 To mar Commr No 925 dt 17.11.28 calls for report with records on the petn(s)(1) & states that the petr was informed that no stay order will be issued as prayed for

3. Endt 926 dt 17.11.28 to the petr informing him accordingly

4. From, the Hr C. Letter no. 8215 dt 16.1.29. Submits the report with records called for on 2.

4 The dispute in this case relates to the ownership of a House at Mandya

5 The Hr C has held that the House belongs to Sri Sakalesvara Swamy temple at Mandya.—

6 The apltt who is the Archak has appealed to Govt against this order claiming the house as his own.

7 As ordered by the Member, the case will be posted for hearing with the next batch of cases

Submitted

AG 4.2.29.

(Mr C's file).

MG 4/2/29

6 The Archak has not produced any specific authority for the grant of the house exclusively to him in his

NOTE—Contn. sheet

Serial No.

individual right. It has been given to him as an Archak of the temple and he has been living in it for sufficiently long period. and to evict him therefrom because he has claimed a right thereto does not seem to be equitable. So long as he does the Archak work. It has perhaps to be presumed that the enjoyment was given to him as he happened to be the Archak of the temple & it should be reserved for the person who does the work & he should be allowed to have it so long as he does the work. The grant may be made in the name of the Archaka of the temple instead of Archaka by name or in the name of the appellant. There may be direction to treat the house as temple property as it may come to be used for other purposes later on by future Dharmadarsi. The above aspects may be avoided The Case will be posted for hearing with the next batch of Cases.

(Sd) [illegible]
Member

(Sd) [illegible]
Member

No. 4708

NOTE - Contn. sheet

WD 021—GPB—30,000—21-8-28

8.2.29

Serial No.

D/D. Notices Submr
12.3.1929

Date 7-29
(26-3-29)

5889/26/3

The case was heard on 26th March 1929.

The Appellant and his Counsel Mr.Murthi Rao were present: the Respondent Nagappa was also present with his Counsel Mr. T.Appu Rao. Visvanatha Bhatta, alleged to be one of the Dharmadarsis, was also present.

The question is about the right of the temple to the house under consideration. The appellant contends that the house was gifted to his father by Pattabiramaiah for his personal benefit and not as Archak of the temple of Sakle varaswami and for the performance of the puja services there. The respondent contests this view and states that the house was a gift to the temple and not to the appellant's father for his personal benefit. Whether the gift of the house can be considered as a trust in favour of the temple, is the question for settlement and there is no provision under the Muzrai Regulation authorising Muzrai Officers to investigate into disputes of this kind. Chapter II deals with only Muzrai institutions and with alienations of Inam lands endowed to them.

Serial No.

Chapter III deals with public Religious and Charitable institutions other than Muzrai institutions and Section 13 prescribes the procedure to be followed whenever there is a dispute as to whether any charitable or religious trust has been actually created in respect of any such institution. The present case comes neither under Chapter II nor under Chapter III, as The institution is a Muzrai institution, while the house claimed on its behalf is a property the trust character of which is in dispute. In the circumstances of the case, I do not think the Muzrai Department can interfere with the possession of the house by the appellant without establishing that it is the property of the temple and this claim can only be established by resort to a civil court. At the same time, it is very probable that the gift was actually for the temple and as a matter of fact, it is only the temple Archaks that have been in possession of it. In these circumstances without entering into the question of the right of the temple to the house the following order may be passed:-

O r d e r.

It is admitted that the house was gifted by the respondent's father to the appellant's father who was the Archak of the temple. The Appellant is now the Archak of the temple and he need not be evicted from the house until he continues to be such.

NOTE—Contn. sheet

WD 021—GPB—30,000—21-8 28

26-3-29

General and Revenue Secretariat.

File No. 178 of 1928

Serial No.

WR. under Secretary.

AV
24 2?

WB
8/4

WMS
5 7/4 To

H. Mus concur
Cpo 2194 D/ 9-4-29

Copy of decision in appeal No 13 of 28-29, that the appellant is not the Archak of the temple & he need not be evicted from the house until he continues to do such.

B B
WMS
7/4

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4 28

MUZRAI

Records may be called for and the case posted for hearing. No stay order only 9-11-28

Mez 173—28

OFFICE OF THE FIRST MEMBER OF COUNCIL
9 NOV. 1928
No M:152

BEFORE THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

Muzarai Appeal No. of 1928-1929.

Appellant:- Narayana Deekshit,
Archak of Sri Sakaleswaraswami
Temple, M a n d y a.

Vs.

Respondent:- Nagappa, son of Pattabhiramiah,

M a n d y a.

---oOo---

The Appellant atovenamed begs to appeal against the order of the Muzarai Commissioner in Muzarai Appeal Petition No. 35 of 27-28, reversing the order of the District Muzarai Officer of Mysore District, in Muzarai Mis. Case No. H. Pet. 94 of 1927, for the following among other reasons:-

1. The learned Muzarai Commissioner has erred in having assumed, contrar to the findings of the Amildar and President of the Mandya Municipal Council, and of the District Muzarai Officer of Mysore District, Mr. T.G. Rama Iyer, that the house in question belongs to Sri Sakaleswara Swami Temple, and that the same was made a gift of by the ancestors of the Respondent to

Sakaleswara Swami for purposes of residence of the Archak for the time being.

2. The learned Muzarai Commissioner's finding is not supported by the evidence on record and is based on mere surmises and on the highly interested statements of Visvanatha Bhatta who bears ill-will to the Appellant, on the supposed ground that the appellant it was that got him dismissed from his Dharmakartaship. The said Visvanatha Bhatta, taking advantage of his position then as Dharmakartha,had diverted temple properties from their legitimate purposes and had converted them to his own use, and on the matter coming to the notice of the authorities, he was removed from Dharmakarthaship for his misconduct. On account of this supposed sin of the appellant, the Respondent at the instigation of Visvanatha Bhatta is determined to see that the Appellant is deprived of his house, which has been in the exclusive possession and enjoyment of Appellant's family for over 50 years, and which has all along been enjoyed by the Appellant's ancestors and the Appellant as their own property.

3. The learned Muzarai Commissioner has failed to see that Mr. Subbiah, the elder brother of the Respondent, and Mr. Narasimha Sastry, Dharmakartha of the temple in question, have both admitted in very clear terms that the gift by the donor Pattabhiramiah to Appellant's father, was to the latter personally, and not to the temple, and that the Khatha might be made

out in the name of the Appellant. Another brother of the Respondent has also admitted that the gift was in favour of Appellant's father personally, Visvanatha Bhatta, who is not at all a Dharmadarsi, is acting in Collusion with the Respondent and his opinion is not entitled to any weight, he himself having set up the Respondent against the appellant.

4. The learned Muzarai Commissioner has failed to note that if the donor wanted to make a gift of the property to the Temple, he could and would have executed a regular document in favour of the Gokaleswara-Swami. In the absence of any documentary or other evidence in support of the Respondent's contertion, and in view of the long and admitted enjoyment of the house by the Appellant and his father, the learned Muzarai Commissioner should have drawn the ordinary presumption of law that title goes with possession, and he should have held that the Khatha should be made out in the name of the Appellant.

5. The learned Muzarai Commissioner has erred in having acted on the opinion of the permanent Deputy Commissioner, (or rather, on the opinion of the Personal Assistant of the Deputy Commissioner) which was clearly illegal and one-sided, and the Appellant had not even been heard before the said opinion had been expressed. The order to evict the Appellant was wrong, when the question was merely to transfer the Khatha or not, to Appellant's name.

6. The learned Muzarai Commissioner should

under no circumstances have ordered eviction of the Appellant, but should, if he felt any doubt at all, regarding the right of the Appellant to have the Khatha made out in his name, have ordered the parties to litigate their title in a Court of Law.

7. The Order under appeal of the learned Muzarai Commissioner is against the facts and circumstances of the case, and is opposed to law and probabilities.

For the above reasons, the Appellant most respectfully prays that the order of the Muzarai Commissioner be reversed, and that of the learned District Muzarai Officer of the Mysore District, Mr. T.G. Rama Iyer, be affirmed.

The Appellant further prays that pending disposal of this Appeal, effect be not given to the orders of the Muzarai Commissioner, as otherwise the Appellant will be put to serious hardship. The Appellant prays for immediate issue of a stay order.

B. Nanti Rao.
Advocate
8.11.28. Bangalore:

Enclosn.
1. Certified Copy of Muzrai Commissioner's order Dt 25.9.28 against which this appeal is brought.
2. License No 9 Dt 14.4.21 granted to appellant by Mandya Municipality
3. Notice of demand No 184 Dt 1.7.21 given by Mandya Municipality to Appellant.
4. Endorsement Dt 18.6.28 given Mandya Taluq Office to appellant informing Cancellation of Sale of land belonging to Sakaleswaraswami

order of the Municipal Commissioner in Mysore

Subject- Appeal petition (No. 85 of 27-28)
of Nagappa of Puttalu village Mandya Taluk
against the order of the Deputy Commissioner
Mysore District on the matter of Repair of the
Temple of Sri Sakaleswara Swami Temple at-
Mandya & the house in which the archak is
living

Appellant :- Nagappa of Puttalu village, Mandya Taluk

Respondent :- Narayana Deekshit- archak of
the above temple of Sri Sakaleswara
Swami at- Mandya.

Facts of the case

The above temple is a known Hindu temple
The dispute is about the house in which the
respondent- is living. The respondent- having
applied to the Municipal authorities for the
transfer of the khata of the house to his name
from that of the petitioner's deceased
father of the appellant- as he had paid
Municipal taxes for over 80 years. The

as the Khata was in the name of the father
-ect that can be presumed is that he was
assessed for municipal tax in connection
with the house and no inference can be drawn
as to ownership is correct. There is no doubt
that the house belongs to Sri Sakaleswara
Swamy Temple and the archak should not
be allowed to claim the house. The Sub Divisional
Officer's order to evict them should be restored
as the archak has refused to abide by the con-
ditions to establish the title of the temple.

(signed) P.G. Dikshitulu
Municipal Commissioner

Copy applied on 28-10-28
Copy ready on ~~30-9-28~~ 1-10-28
Copy delivered on 1-10-28
No. of words 718
Copying charges Rs. 1-4
Compared by Hanumanthiah

Mandya Municipal Office

5-3-21		
14-4-21		

TWO RUPEES ೨-೦

In the Court of

Before the Govt of H.H. Maharaja of Mysore.

Miscellaneous Appeal No. of 1928-192 9.

Appellant Plaintiff.		*Respondent Defendant.*
Narayana Bakshi, Mandya.	Vs.	Nanjappa, Mandya.

1. I, the appellant above named do, by these presents, retain Mr. B. Nanjunda Rao, BA&BL, Advocate

to appear and conduct the above case on..... ..... my..... behalf to judgment.

2. ..... I.. further empower him to do all necessary acts in the above case, to execute any decree or order that may be passed in .....my..... ...behalf, and to receive from the Court all documents, refunds and all sums of money that ..... may be entitled to get and grant receipts therefor

3. .....I.. also undertake to confirm and ratify all the acts done by the said Advocate or by any other Advocate on his behalf in so doing.

....192
BANGALORE.

ಅರ್ಜಿದಾರರ ಹೆಸರಿಗೆ
ನಂಜಪ್ಪ.

Personally known to me and signed in my presence.—ACCEPTED.

B. Nanjunda Rao

Advocate.
21-11-28

Advocate for. Appellant.

Sold by VIDYA VILASA, Book Depot, Chickpet, Bangalore City.

Section mm

File No. 173-28

Serial No. 2

No. 928

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To The D. C.

Date of issue 17/1/28

Signed by Mr. T. K. [illegible]

Sir,

I am directed to forward herewith for report with records, petition no 714 from Narayana Dikshit, Archak of Sri Sakaleswara Swamy temple at Nandya appealing against your order in the matter of the right of the temple to the house in which the Archak is living

List of enclosures.....

Copied by .....

Examined by .....

over

P.T.O.

WD0325—GPB—30,000—26 5-27

The appellants have been
separately informed that the prayer for
a ~~stay prayed for by them~~, for a
stay order cannot be ~~issued~~ complied with pending disposal of the
appeal petition.

I have etc

WD/1671

Dy Regr. Secy.

Encls:

F.26/WP/73-28-3

With ref to his petition No 7/17 ... appealing against the M.C's order in the matter of the right of the temple at Sri Sankaranarayana Swamy at Nandyal & the house in which the archaka is living, Archaka Narayana Dikshith is informed that a report with records has been called for in the matter and that his prayer for ~~by being no~~ a stay order cannot be complied with ~~issued~~.

B. O.

WD/1674.

Dy Regr Secy

Wr Encls

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore,...15th..January..... ... ...1929 .

16

No. 845 Ex 27 files
28-9

FROM

P. G. D'Souza, Esq., P.A., P.L.,
The Muzrai Commissioner in Mysore.

REVENUE & PUBLIC SECRETARIAT
17 JAN 1929
MUZRAI
D1065

Muz.173-28-3

To

P. Srinivasa Iyengar, Esq., B.A., B.L.,
Secretary to the Government of His Highness
the Maharaja of Mysore, Financial Department.

SIR,

Referring to your letter No.925/Muz.173-28-2 dated 17th - November 1928 forwarding for report with records petition from Narayana Dikshit, Archak of Sri Sakaleswaraswamy temple at Mandya appealing -- against this office order in the matter of the right of the temple to the house in which the Archak is living, I have the honor to submit -- herewith the connected records received with the Mysore District Deputy Commissioner's letter No.H.430 of 28 dated 5th January 1929 (copy of -- which is herein enclosed.)

This office D1 Dis.60 of 28-29 dated 25th September 1928 --- containing the order appealed against the preamble of which gives the facts of the case is also enclosed for reference and kind return.

The appeal petition together with its enclosures received with your letter under reference is also herewith retransmitted.

I have the honor to be,
Sir,
Your most obedient servant,

P Thimmaiah
Assistant Commissioner
for Muzrai Commissioner.
(absent from Station)

Letter No.H.430/28 dated 5th January 1929 from the Deputy Commissioner Mysore District to the Muzrai Commissioner in Mysore.

Appeal - Narayana Deekshit - Archak - Sri Sakaleswaraswamy temple-Mandya.

With reference to your memo No.845 of 28-29 dated 23rd November 1928 regarding the petition of Narayana Deekshit Archak of the Sri Sakaleswara swamy temple at Mandya, I have the honor to forward herewith the entire connected records and to state that the facts of the case under appeal are clearly set forth in this office order No.H.Pet.94/27 (R.H.567/27) dated 17th January 1928 and your order No.D 1 Dis.60/28-29 dated 25th September 1928 copies of which are enclosed in the file.

The petition and its enclosures received with your memo are retransmitted herewith.

"C o p y"

For Muzrai Commissioner.

Before the Government of His Highness the Maharaja of Mysore.

Muz. Appeal No. 13 of 1928-9

Appellant.	Vs.	Respondent
Archak Narayana Dikshit.		Nagappa.

Subject.

Appeal against the M.C's order in the matter of the rights of Sri Sakalemana Swamy temple at Mandya to the house in which the Archaka is living.

Decision Copy members' minutes on page 4 from "The case" to "present" and on page 5 from "It is ordered"

GPB—1,000—8-8-11

Memo 2194 Income

8.9-4

Copy to M.E. Dept.

AB
QS
16/4

The words received with
his letter no. 8455 QS
16.1.1925.

W.
3/4
Incr.

Before the Government of His Highness the Maharaja of Mysore.

Muz. Appeal No. 13 of 1928-29.

Appellant.	*Vs.*	Respondent
Archak Narayana Dikshit.		Nagappa.

Subject.

Appeal against the Muzrai Commissioner's order in the matter of the right of Sri Sakaleswaraswamy temple at Mandya to the house in which the Archak is living.

Decision.

The case was heard on 26th March 1929. The appellant and his Counsel Mr. Murthi Rao were present, the respondent Nagappa was also present with his Counsel Mr. T. Appu Rao. Viswanatha Bhatta, alleged to be one of the Dharmadarsis, was also present.

It is admitted that the house was gifted by the respondent's father to the appellant's father who was the Archak of the temple. The appellant is now the archak of the temple and he need not be evicted from the house until he continues to be such.

Memo No. 2194 Muz 173-28-5 Enclosures 2 files. Bangalore, dated the 9 April 1929.

Copy of the above is forwarded with compliments to the Muzrai Commissioner in Mysore, returning the records received with his letter No. 845, dated 16th January 1929.

By Order,

For Secretary to Government,
Financial Department

GPB—1,000—8-8-11